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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,658	01/30/2007	Niels Raeder	P71173US0	4551

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JACOBSON HOLMAN PLLC
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WASHINGTON, DC 20004

EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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07/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/572,658	Applicant(s) RAEDER, NIELS	
	Examiner CARL D. PRICE	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/30/2007 (preliminary amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/25/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plastic part is embodied discoidally" (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. Claims 1-13 appear to contain trademark/trade name "Information Carrier". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a substrate on which information is placed and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims Rejected under 35 U.S.C. 103(a)

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US005447430 (Kim et al) in view of US001457811 (Baker) or US 1352336 (Yingst) and further in view of JP 03-69457 or FR 2549937.

US005447430 (Kim et al) shows and discloses a gas fuel lighter including:

- a transparent housing defining a liquefied gas fuel tank (14);
- a lighter head (10) with a burner device (13); and
- an ignition device (12);
- wherein the fuel is colored;
- wherein the lighter is embodied as a disposable ("throw-away") lighter.

US005447430 (Kim et al) shows and discloses the invention substantially as set forth in the claims with possible exception to:

- the housing including a transparent window;
- the fuel being white gas; and
- an information carrier held in the fuel tank with the help of holding devices;
 - wherein the information carrier is plastic on which information is imprinted;
 - wherein the information carrier is plastic onto which a film carrying the information or a paper sheet carrying the information is glued;
 - the plastic part is embodied discoidally;
 - the information is an image, an advertising text, an inscription, a lot number or the like; and
 - the color of the information carrier and/or the information is coordinated with the coloring of the fuel.

US001457811 (Baker) and **US001352336 (Yingst)** teach that it is known to form containers with both a transparent container wall or wall portion as well as an information carrier located within the container to have a least a portion defining a transparent or non-colored inspection window used as an aide in determining a level of fluid within the container. Wherein the transparent inspection window is used to view information located on the information carrier. Wherein the information on the carrier is used to indicate a level of fuel within the container (see c4; **US001457811 (Baker)**), or for the purpose of conveying for example an advertisement (see 2, 3; Figure 1 of **US001352336 (Yingst)**).

FR 2549937 and **JP 03-69457** teach that it is known to form transparent plastic containers to have a least a portion defining a transparent or non-colored inspection portion used as an aide in determining a level of fluid within the container. More specifically, **FR 2549937** applies this principle to a liquid fuel gas lighter, and **JP 03-69457** applies this technique to a liquid container of general utility.

In regard to claims 1-13, for the purpose of providing means to, for example, indicate the level of fuel within the fuel tank, or to convey a message of advertisement, it would have been obvious to a person having ordinary skill in the art to modify the liquid container of **US005447430 (Kim et al)** to include an information carrier and carrier support therein, in view of the teaching of **US001457811 (Baker)** or **US001352336 (Yingst)**. Also, in regard to claims 1-13, for the purpose of permitting at least a portion of the fuel container to be colored, it would

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have been obvious to a person having ordinary skill in the art to , in view of the teaching of **FR 2549937** and **JP 03-69457**.

In regard to claim 7, Official Notice s taken that white gas is a suitable fuel for lighter. Therefore, to modify the lighter of **US005447430 (Kim et al)** to operate with a non-pressurized fuel gas like white gas, as an alternative fuel source, would have been obvious to a person having ordinary skill in the art at the time of the invention.

I In regard to claims 9-13, Official Notice is taken that each of applicant's claimed means for applying indicia to a carrier are well known in the art of printed matter. Furthermore, the manner in which printed matter or information is applied to a carrier or substrate would necessarily depend on numerous design concerns such as the desired composition material used to form the indicia or information. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to select known techniques for applying a given form of indicia or information to the carrier. Furthermore, whether or not the color of the information on the carrier is in some way "coordinated" with the fuel color can only be seen as a matter of choice in design in as much as applicant has not demonstrate any new or unexpected results which might be produced therefrom.

Conclusion

See the attached USPTO for, 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

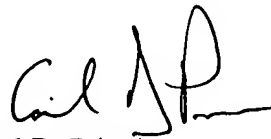
USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CARL D. PRICE** whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Steven B. McAllister** can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Carl D. Price/

Primary Examiner, Art Unit 3749

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